

BOARD OF REGISTERED NURSING
Agenda Item Summary
Legislative Committee

AGENDA ITEM: 8.1

DATE: February 20, 2009

ACTION REQUESTED: Information Only: 2007-2008 Goals and Objectives: Summary of Accomplishments

REQUESTED BY: Louise Bailey, MEd, RN
Nursing Education Consultant

BACKGROUND:
A summary of the Legislative Committee's accomplishments for 2007-2008 has been compiled for review.

NEXT STEP: Place on Board Agenda

**FINANCIAL
IMPLICATIONS,
IF ANY:** None

PERSON TO CONTACT: Louise Bailey, MEd, RN
Nursing Education Consultant
(916) 574-7600

BOARD OF REGISTERED NURSING LEGISLATIVE COMMITTEE

Goals and Objectives 2007-2008 Summary of Accomplishments

GOAL 1: **Keep the Board of Registered Nursing informed about pertinent legislation and regulations that may affect nursing practice, education, and nurses' roles in the delivery of health care and administrative functions of the Board.**

OBJECTIVE: 1.1 Analyze legislative proposals and make position recommendations to the Board at each Board meeting.

The committee provided information and analyses of each bill followed, and made recommendations to the Board at each Board meeting.

During the 2007/2008 Legislative Session, many bills of general interest to the Board or those having potential impact on the administration of the Board were followed. Although these bills address many subjects, each affects registered nursing in some way. There were forty-four (44) bills followed by the Board, Twelve (12) were signed into law by the Governor, six (6) were vetoed and twenty-six (26) failed in committees or were no longer applicable to the Board.

GOAL 2: **Monitor current legislation on behalf of the Board.**

OBJECTIVE: 2.1 Advocate for or against legislation as directed by the Board.

The committee monitored legislative bills relative to the Board and committee staff advocated for bills supported by the Board and voiced the concerns of the Board for those bills in opposition.

- Committee staff continued to respond to public inquires concerning bills followed by the Board.
- Numerous legislative Committee hearings, concerning bills followed by the Board, were attended.

OBJECTIVE: 2.2 Review and suggest appropriate amendments as necessary.

The committee staff participated in recommending and writing amendments to specific bills relative to Board action.

- Committee staff attended legislative meetings and communicated with legislator's staff to articulate the Board's position on specific bills.
- Committee staff sent letters to various senators and assembly members expressing the Board's position of support or opposition to their respective bills.
- The Governor was sent letters requesting that specific bills, relative to the Board of Registered Nursing and consistent with Board's action, be signed or vetoed.

GOAL 3: Serve as a resource to other Board Committees on legislative and regulatory matters.

OBJECTIVE: 3.1 Assist other Board Committees in reviewing legislative regulatory proposals.

The committee staff served as a resource to other Board Committee members and committee liaisons concerning legislative issues that impacted their respective committees. The following are examples of issues and projects on which the Committee staff collaborated with other committees and/or staff:

- School bus drivers: Medical examinations (Bass) - Nursing practice Committee
- Public Health: Confidential medical information (Jones) – Nursing Practice Committee
- Public Health: Individuals with exceptional needs (Saldana) – Nursing Practice Committee
- Dental Auxiliaries (Eng) – Nursing Practice Committee
- Blood Transfusions (Migden) – Nursing Practice committee
- Public Postsecondary Education: Degree Nursing Programs (Berryhill) – Education and Licensing Committee
- Nursing Education (Scott) – Education/Licensing Committee
- Nursing Programs (Scott) – Nursing Programs
- Nursing Education (Ashburn) – Education/Licensing Committee
- Healing Arts Practitioners: Alcohol and Drug Abuse (Ridley-Thomas) – Diversion/Discipline Committee
- Healing Arts (committee on Business Professions & Education) – Administrative Committee
- Nursing Training Scholarship Pilot Program (Parra) – Administrative Committee

**GOAL 4: Enhance the Board's process to proactively identify
Legislation that potentially impacts nursing and the Board**

OBJECTIVE: 4.1 Evaluate additional resources, e.g. Internet, new legislative publications, etc., as sources of pertinent legislative information.

Staff utilized the California Legislative Information maintained by the Legislative Council on the Internet, as well as State Net. Legislative publications from various associations, and state publications, were also used as resources for legislative activities.

OBJECTIVE: 4.2 Maintain consistent dialogues with Department of Consumer Affairs (DCA) Legislative Unit, Legislators and their staff.

The committee was proactive in identifying and monitoring legislation relative to the Board.

- Committee staff communicated frequently and regularly with DCA Legislative staff to identify proposed legislation and its potential impact on the BRN.

- Committee staff met and communicated frequently with organizations, and sponsors of legislation to articulate and clarify issues relative to the BRN.
- Committee staff met with the Associate Degree Nursing Program Directors and the Baccalaureate Degree Nursing Program Directors and presented proposed legislation that impacted the programs.
- Committee staff communicated with other state departments, relative to legislation impacting the BRN.

BOARD OF REGISTERED NURSING
Agenda Item Summary
Legislative Committee

AGENDA ITEM: 8.2
DATE: February 20, 2009

ACTION REQUESTED: Information Only: 2007-2008 Legislative Session Summary

REQUESTED BY: Louise Bailey, MEd, RN
Nursing Education Consultant

BACKGROUND:
A summary of the 2007-2008 Legislative Session has been compiled for review.

NEXT STEP: Place on Board Agenda

**FINANCIAL
IMPLICATIONS,
IF ANY:** None

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BOARD OF REGISTERED NURSING LEGISLATIVE COMMITTEE

2007/2008 Legislative Summary

During the 2007/2008 Legislative Session, many bills of general interest to the Board or those having potential impact on the administration of the Board were followed. Although these bills address many subjects, each affects registered nursing in some way. There were forty-four (44) bills followed by the Board, Twelve (12) were signed into law by the Governor, six (6) were vetoed and twenty-six (26) failed in committees or were no longer applicable to the Board. The following is a brief description of the chaptered bills followed by the Board. Unless otherwise stated, the statutes of 2007 became effective January 1, 2008, and the statutes of 2008 became effective January 1, 2009.

AB 139 (Bass)

Chapter 158, Statutes of 2007

Vehicles: School bus drivers: Medical examinations

AB 139 authorizes a licensed advance practice registered nurse or a licensed physician assistant to perform a medical examination on applicants seeking an original or renewal certificate to drive a school bus, school activity bus, youth bus, general public paratransit, or farm labor vehicle. It requires the medical report to be submitted to the Department of Motor Vehicles.

AB 211 (Jones)

Chapter 602, Statutes of 2008

Public Health: Confidential medical information

AB 211 requires every provider of health care, to implement appropriate specified safeguards to protect the privacy of a patient's medical information from unauthorized or unlawful access, use, or disclosure. It establishes, within the California Health and Human Services Agency, the Office of Health Information Integrity to assess and impose administrative fines for a violation of these provisions. It provides for a director to be appointed, by the Secretary of California Health and Human Services, with the authority to send a recommendation for further investigation of, or discipline for, a potential violation to the licensee's relevant licensing authority.

AB 342 (Saldana)

Chapter 12, Statutes of 2007

Pupil health: Individuals with exceptional needs

AB 342 authorizes a person holding a certificate of public health in nursing to assist individuals with exceptional needs who require specialized physical healthcare services, during the regular school day.

AB 994 (Parra)
Chapter 426, Statutes of 2008
Health Care: Nursing Training Scholarship Pilot Program

AB 994 extends the operative date of the statewide Associate Degree Nursing Scholarship Pilot Program, in the Office of Statewide Health planning and Development, to January 1, 2014.

AB 1559 (Berryhill)
Chapter 712, Statutes of 2007
Public Postsecondary Education: Degree Nursing Programs

AB 1159 provides for a community college registered nursing program that determines the number of applicants to the program exceeds its capacity, to admit students as follows using a:

1. Multicriteria screening process.
2. Random selection process.
3. Blended combination of random selection and a multicriteria screening process.

If a community college elects to use a multicriteria screening process to evaluate applicants for admission, it must include criteria relative to the academic performance, work or volunteer experience, foreign language skills, life experiences, and special circumstances of the applicant.

AB 2637 (Eng)
Chapter 499, Statutes of 2008
Dental Auxiliaries

AB 2637 among other matters, provides for dental assistants to expand their functions by acquiring a Dental Sedation Assistant permit after completion of a prescribed course. The permit allows the dental assistant, an unlicensed individual, to administer intravenous sedation to patients, under the supervision of a dentist. It also permits the course director or faculty member to be a certified registered nurse anesthetist.

SB 102 (Migden)
Chapter 88, Statutes of 2007
Blood Transfusions

SB 102 requires a physician to inform a patient, by means of a standardized written summary, either directly or through a nurse practitioner, certified nurse midwife, or a physician, of the positive and negative aspects of receiving autologous blood and directed and nondirected homologous blood from volunteers.

SB 139 (Scott)
Chapter 139, Statutes of 2007
Nursing Education

SB 139 prohibits a California State University or California Community College that has a registered nursing program from requiring a student who has been admitted to the nursing program, and who has already earned a baccalaureate or higher degree from a regionally accredited institution of higher education, to complete general education requirements. These nursing students would only be required to complete the course work necessary to prepare him or her for licensing as a registered nurse.

SB 1048 (Committee on Business Professions & Education)
Chapter 588, Statutes of 2007
Healing Arts

SB 1048 requires, among other things, that every employer of, or agent for, a registered nurse required to hold a license in obtaining employment, is required to ascertain that the nurse is currently authorized to practice as a registered nurse, or as a temporary licensee or interim permittee. If a board-issued certification is required for employment, the employer is required to ascertain that the person has a board-issued certification and authorized to practice as a:

- Nurse Practitioner
- Nurse Practitioner with a furnishing number
- Nurse Anesthetist
- Nurse Midwife
- Nurse Midwife with a furnishing number
- Public Health Nurse
- Clinical Nurse Specialist
- Board-listed Psychiatric Mental Health Nurse.

SB1393 Scott
Chapter 175, Statutes of 2008
Nursing Programs

SB 1393 prohibits a campus of the California State University or a California Community College that operates a registered nursing program, from requiring a student who holds a baccalaureate degree from a regionally accredited institution, from having to complete coursework other than the coursework that is unique and exclusively required to earn a nursing degree from that institution. It also prohibits a community college district from:

- Excluding an applicant on the basis that the applicant is not a district resident or has not completed prerequisite courses in that district.
 - Implementing policies, procedures, and systems that have the effect of excluding an applicant or student who is not a resident of that district.
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SB 1441 Ridley-Thomas
Chapter 283, Statute of 2008
Healing Arts Practitioners: Alcohol and Drug Abuse

SB 1441 establishes, with the Department of Consumer Affairs, the Substance Abuse Coordination Committee that would be required to formulate, by January 1, 2010, uniform and specific standards that each healing arts board would be required to use in dealing with substance-abusing licensees.

SB 1621 Ashburn
Chapter 183, Statute of 2008
Nursing Education

SB 1621 limits participation in the State Nursing Assumption Program (SNAPLE) to those who, at a minimum, possess a baccalaureate degree in nursing or a field related to nursing. It prohibits a person who is currently teaching nursing at a regionally accredited California college or university from entering into an agreement for loan assumption.

BOARD OF REGISTERED NURSING
Agenda Item Summary
Legislative Committee

AGENDA ITEM: 8.3
DATE: February 20, 2009

ACTION REQUESTED: Approve/Not Approve: Goals and Objectives for the two year Legislative Session 2009-2010

REQUESTED BY: Louise Bailey, MEd, RN
Nursing Education Consultant

BACKGROUND:
The 2009-2010 Goals and Objectives of the Legislative Committee are being submitted for review and approval.

NEXT STEP: Place on Board Agenda

**FINANCIAL
IMPLICATIONS,
IF ANY:** None

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE**

2009-2010 Goals and Objectives

GOAL 1:	Keep the Board of Registered Nursing informed about pertinent legislation that may affect nursing practice, education, nurses' roles in the delivery of health care and administrative functions of the Board.
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OBJECTIVE: 1.1	Analyze legislative proposals and make position recommendations to the Board at each Board meeting.
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GOAL 2:	Monitor current legislation on behalf of the Board.
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OBJECTIVE: 2.1	Advocate for or against legislation as directed by the Board.
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OBJECTIVE: 2.2	Review and suggest appropriate amendments as necessary.
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GOAL 3:	Serve as a resource to other Board Committees on legislative and regulatory matters.
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OBJECTIVE: 3.1	Assist other Board Committees in reviewing legislative and regulatory proposals.
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GOAL 4:	Enhance the Board's process to proactively identify legislation that potentially impacts nursing and the Board.
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OBJECTIVE: 4.1	Evaluate resources, e.g. Internet, new legislative publications, etc., as sources of pertinent legislative information.
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OBJECTIVE: 4.2	Maintain consistent dialogue with DCA legislative unit, legislators and their staff.
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OBJECTIVE 4.3	<u>Provide testimony to the Legislature, on behalf of the Board, as requested.</u>
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BOARD OF REGISTERED NURSING
Agenda Item Summary
Legislative Committee

AGENDA ITEM: 8.4
DATE: February 20, 2009

ACTION REQUESTED: Adopt/Modify Positions on Bills of Interest to the Board

REQUESTED BY: Louise Bailey, MEd, RN
Nursing Education Consultant

BACKGROUND:

Assembly Bills:

AB 48

AB 120

AB 160

Senate Bills:

SB 43

SB 92

SB 112

NEXT STEP: Place on Board Agenda

**FINANCIAL
IMPLICATIONS,
IF ANY:**

None

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**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2009
FEBRUARY 20, 2009**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 48	Portantino & Niello	Private postsecondary education: DCA	--	--	Assembly
AB 120	Hayashi	Health care providers: reasonable disclosure: reproductive choices	--	--	Assembly
AB 160	Hayashi	Registered Nurses: Education Program	--	--	Assembly

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
SENATE BILLS 2009
FEBRUARY 20, 2009**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 43	Alquist	Health professions	--	--	Senate
SB 92	Aanestad	Health care reform	--	--	Senate
SB 112	Oropeza	Hemodialysis Technicians	--	--	Senate

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
FEBRUARY 20, 2009
BILL ANALYSIS**

AUTHOR:	Portantino and Niello	BILL NUMBER:	AB 48
SPONSOR:	Governor's Office	BILL STATUS:	Assembly
SUBJECT:	Private Postsecondary Education: Department of Consumer Affairs	DATE LAST AMENDED:	Introduced 12/1/08

SUMMARY:

The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act. The former act also established the Private Postsecondary and Vocational Education Administration Fund, composed of certain fees imposed on private postsecondary institutions, which was repealed on July 1, 2008.

ANALYSIS:

This bill would express the intent of the Legislature to enact legislation to establish a Bureau for Private Postsecondary Education and to encourage the Department of Consumer Affairs to receive and respond to student complaints and provide information to students and prospective students of private postsecondary educational institutions, until a Bureau for Private Postsecondary Education is established. It would continue the existence of the Private Postsecondary and Vocational Education Administration Fund under the administration of the Department of Consumer Affairs and would appropriate \$1,000,000 from that fund to the department.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

BILL NUMBER: AB 48 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Members Portantino and Niello

DECEMBER 1, 2008

An act relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as introduced, Portantino. Private postsecondary education: Department of Consumer Affairs.

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The former act also established the Private Postsecondary and Vocational Education Administration Fund, composed of certain fees imposed on private postsecondary institutions, which was repealed on July 1, 2008.

This bill would express the intent of the Legislature to enact legislation to establish a Bureau for Private Postsecondary Education and to encourage the Department of Consumer Affairs to receive and respond to student complaints and provide information to students and prospective students of private postsecondary educational institutions, until a Bureau for Private Postsecondary Education is established.

The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund under the administration of the Department of Consumer Affairs and would appropriate \$1,000,000 from that fund to the department for the above purposes.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) It is the intent of the Legislature to enact legislation to establish a Bureau for Private Postsecondary Education.

(b) It is the intent of the Legislature that the legislation described in subdivision (a) should be clearly drafted, reasonably enforceable, and easily understandable to students, schools, and regulators.

(c) It is further the intent of the Legislature to encourage the Department of Consumer Affairs to receive and respond to student complaints and to provide information to students and prospective students of private postsecondary educational institutions, until a Bureau for Private Postsecondary Education is established.

SEC. 2. (a) The Private Postsecondary and Vocational Education Administration Fund established by former Section 94932 of the

Education Code, and extended and reconfigured by Chapter 635 of the Statutes of 2007, is hereby continued in existence under the administration of the Department of Consumer Affairs.

(b) This section shall apply retroactively from June 30, 2008.

SEC. 3. The sum of one million dollars (\$1,000,000) is hereby appropriated from the Private Postsecondary and Vocational Education Administration Fund to the Department of Consumer Affairs for purposes of receiving and responding to student complaints and providing information to students and prospective students of private postsecondary educational institutions.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
FEBRUARY 20, 2009
BILL ANALYSIS**

AUTHOR:	Hayashi	BILL NUMBER:	AB 120
SPONSOR:	Hayashi	BILL STATUS:	Assembly
SUBJECT:	Health care providers: reasonable disclosure: reproductive choices	DATE LAST AMENDED:	Introduced 01/15/09

SUMMARY:

Existing law provides that every person has the right to choose or refuse birth control and that every woman has the right to choose to bear a child or to obtain an abortion. Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, nurse practitioners by the Board of Registered Nursing, and physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law specifies conduct deemed unprofessional by physicians and surgeons, nurse practitioners, and physician assistants and provides for investigation and discipline of that conduct by the respective licensing boards.

This bill would amend sections of the Business and professions Code, and the Health and Safety Code, relating to the healing arts.

ANALYSIS:

This bill would provide that a patient is entitled to receive all information, including all available medical choices, reasonably necessary for the patient to give an informed consent with respect to personal reproductive decisions. A physician, nurse practitioner, and physician assistant are obligated to disclose this information, and failure to do so would constitute unprofessional conduct, unless the licensee objects based on ethical, moral, or religious grounds.

Business and Professions Code 2761(Grounds for action) under Disciplinary Proceedings) would be amended as follows:

(5) Failure of a nurse practitioner to fulfill the duty of reasonable disclosure to a patient pursuant to subdivision (e) of Section 123462 of the Health and Safety Code.

Health and Safety Code 123456 would be amended as follows:

(e) Each physician and surgeon, nurse practitioner, and physician assistant described in subdivision (d) has an affirmative duty of reasonable disclosure to his or her patient of all available medical choices with respect to the patient's personal reproductive decisions. Failure of a physician and surgeon, nurse practitioner, or physician assistant to fulfill this

duty shall constitute unprofessional conduct, unless all of the following circumstances exist:

(1) The licensee refuses on ethical, moral, or religious grounds to provide disclosure pertaining to an available medical choice.

(2) The licensee has previously notified his or her employer, in writing, of the medical choice or choices of which he or she objects to disclosing, and the licensee's employer can, without creating undue hardship, provide a reasonable accommodation of the licensee's objection.....

(3) The licensee's employer shall have established protocols that ensure that the patient has timely access to reasonable disclosure of all medical choices despite the licensee's refusal to disclose the specified medical choice.....

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

BILL NUMBER: AB 120 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Hayashi

JANUARY 15, 2009

An act to amend Sections 2234, 2761, and 3541 of, and to add Section 686 to, the Business and Professions Code, and to amend Section 123462 of the Health and Safety Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 120, as introduced, Hayashi. Health care providers: reasonable disclosure: reproductive choices.

Existing law provides that every person has the right to choose or refuse birth control and that every woman has the right to choose to bear a child or to obtain an abortion. Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, nurse practitioners by the Board of Registered Nursing, and physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law specifies conduct deemed unprofessional by physicians and surgeons, nurse practitioners, and physician assistants and provides for investigation and discipline of that conduct by the respective licensing boards.

This bill would make legislative findings and declarations regarding a patient's right to health care services and information. This bill would provide that a patient is entitled to receive, and a physician and surgeon, nurse practitioner, and physician assistant are obligated to disclose, all information, including all available medical choices, reasonably necessary for the patient to give informed consent with respect to personal reproductive decisions. This bill would provide that failure to fulfill this duty constitutes unprofessional conduct, unless the licensee objects based on ethical, moral, or religious grounds, as specified.

Because this bill would specify additional requirements under the Medical Practice Act, and the Nursing Practice Act, the violation of which would be a crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 686 is added to the Business and Professions Code, to read:

686. The Legislature hereby finds and declares that a

professional or vocational license represents a privilege to practice in California. While the state respects the right of an individual licensee to refuse to perform health care services to which he or she objects on ethical, moral, or religious grounds, there are limits on these rights when they conflict with the superior right of patients to access health care services. Accordingly, the Legislature finds and declares that persons licensed under this division should not abandon a patient or otherwise withhold health care service or information from a patient without providing reasonable accommodation of the patient's right to access health care services and information. For purposes of this section, "reasonable accommodation" shall have the same meaning as applied to that term pursuant to subdivision (1) of Section 12940 of the Government Code.

SEC. 2. Section 2234 of the Business and Professions Code is amended to read:

2234. The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have warranted the denial of a certificate.

(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

(h) *Failure to fulfill the duty of reasonable disclosure to a patient pursuant to subdivision (e) of Section 123462 of the Health and Safety Code.*

SEC. 3. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual

certified or licensed nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500.

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(5) *Failure of a nurse practitioner to fulfill the duty of reasonable disclosure to a patient pursuant to subdivision (e) of Section 123462 of the Health and Safety Code.*

(b) Procuring his or her certificate or license by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a certificate or license.

(h) Impersonating another certified or licensed practitioner, or permitting or allowing another person to use his or her certificate or license for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of any of the provisions of Article 12 (commencing with Section 2220) of Chapter 5.

(j) Holding oneself out to the public or to any practitioner of the healing arts as a "nurse practitioner" or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) or holding oneself out to the public as being certified by the board as a nurse anesthetist, nurse midwife, clinical nurse specialist, or public health nurse unless the person is at the time so certified by the board.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensed or certified nurse to patient, from patient to patient, and from patient to licensed or certified nurse. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of *Public Health* ~~Services~~ developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300),

Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to minimize the risk of transmission of blood-borne infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

SEC. 4. Section 3541 of the Business and Professions Code is amended to read:

3541. ~~It~~ *The following shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter* ~~to violate, attempt~~

:

(a) *Violating, attempting to violate, directly or indirectly, or* ~~assist~~ *assisting in or* ~~abet~~ *abetting the violation of, or* ~~conspire~~ *conspiring to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.*

(b) *Failing to fulfill the duty of reasonable disclosure to a patient pursuant to subdivision (e) of Section 123462 of the Health and Safety Code.*

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by this article.

(d) *Each person who seeks health care treatment, consultation, or information pertaining to the person's personal reproductive decisions from a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a nurse practitioner licensed pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code, or a physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code shall be entitled to receive all information reasonably necessary for the patient to give informed consent in determining whether to submit to medical treatment, including disclosure of all available medical choices.*

(e) *Each physician and surgeon, nurse practitioner, and physician assistant described in subdivision (d) has an affirmative duty of reasonable disclosure to his or her patient of all available medical choices with respect to the patient's personal reproductive*

decisions. Failure of a physician and surgeon, nurse practitioner, or physician assistant to fulfill this duty shall constitute unprofessional conduct, unless all of the following circumstances exists:

(1) The licensee refuses on ethical, moral, or religious grounds to provide disclosure pertaining to an available medical choice.

(2) The licensee has previously notified his or her employer, in writing, of the medical choice or choices of which he or she objects to disclosing, and the licensee's employer can, without creating undue hardship, provide a reasonable accommodation of the licensee's objection. For purposes of this section, "reasonable accommodation" and "undue hardship" shall have the same meaning as applied to those terms, respectively, pursuant to subdivision (1) of Section 12940 of the Government Code.

(3) The licensee's employer shall have established protocols that ensure that the patient has timely access to reasonable disclosure of all medical choices pursuant to subdivision (d) despite the licensee's refusal to disclose the specified medical choice.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
FEBRUARY 20, 2009
BILL ANALYSIS**

AUTHOR:	Hayashi	BILL NUMBER:	AB 160
SPONSOR:	Hayashi	BILL STATUS:	Assembly
SUBJECT:	Registered Nurses: Education Program	DATE LAST AMENDED:	Introduced 1/27/09

SUMMARY:

Existing law establishes within the Health Professions Education Foundation, a nonprofit public benefit corporation, the Registered Nurse Education Program, which provides scholarships or loan repayment for registered nursing students who agree in writing prior to graduation to serve in an eligible county health facility, as defined, an eligible state-operated health facility, as defined, a health workforce shortage area, or a California nursing school, as specified. This bill would amend sections of the Health and Safety Code, relating to nurses.

ANALYSIS:

This bill would expand the Registered Nurse Education Program, to include registered nursing students who agree to work as school nurses, in a kindergarten or grades 1 to 12.

Also, current law states that the nurse is obligated to work in a **direct patient care** facility such as, a county health facility, a state operated health facility, a health workforce shortage area or a California nursing school. This bill would define "direct patient care" as follows:

The "**direct patient care**" requirement shall not be construed to prohibit a school nurse, as described in Section 49426 of the Education Code, from performing services specified in that section, including, but not limited to, teaching.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

BILL NUMBER: AB 160 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Hayashi

JANUARY 27, 2009

An act to amend Sections 128385 and 128390 of the Health and Safety Code, relating to nurses.

LEGISLATIVE COUNSEL'S DIGEST

AB 160, as introduced, Hayashi. Registered nurses: education program.

Existing law establishes within the Health Professions Education Foundation, a nonprofit public benefit corporation, the Registered Nurse Education Program, which provides scholarships or loan repayment for registered nursing students who agree in writing prior to graduation to serve in an eligible county health facility, as defined, an eligible state-operated health facility, as defined, a health workforce shortage area, or a California nursing school, as specified.

This bill would expand that program to include registered nursing students who agree to serve in a kindergarten or grades 1 to 12, inclusive, school. The bill would also make nonsubstantive, technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 128385 of the Health and Safety Code is amended to read:

128385. (a) There is hereby created the Registered Nurse Education Program within the Health Professions Education Foundation. Persons participating in this program shall be persons who agree in writing prior to graduation to serve in an eligible county health facility, an eligible state-operated health facility, a health workforce shortage area, or a California nursing school, as designated by the director of the office , *or in a kindergarten or grades 1 to 12, inclusive, school* . Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, ~~or~~ health workforce shortage areas , *or kindergarten or grades 1 to 12, inclusive, schools* , and master's or doctoral students agreeing to serve in a California nursing school may apply for scholarship or loan repayment. The Registered Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Registered Nurse Education Fund shall be used only for the purpose of promoting the education of registered nurses and related administrative costs. The Health Professions Education Foundation shall make recommendations to the director of the office concerning both of the following:

(1) A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county health facility, an eligible state-operated health facility,

~~or in~~ a health workforce shortage area , or a kindergarten or grades 1 to 12, inclusive, school, that would require a period of obligated professional service in the areas of California designated by the California Healthcare Workforce Policy Commission as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(2) Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(b) Applicants may be persons licensed as registered nurses, graduates of associate degree nursing programs prior to entering a program granting a baccalaureate of science degree in nursing, or students entering an entry-level master's degree program in registered nursing or other registered nurse master's or doctoral degree program approved by the Board of Registered Nursing. Priority shall be given to applicants who hold associate degrees in nursing.

(c) Registered nurses and students shall commit to teaching nursing in a California nursing school for five years in order to receive a scholarship or loan repayment for a master's or doctoral degree program.

(d) Not more than 5 percent of the funds available under the Registered Nurse Education Program shall be available for a pilot project designed to test whether it is possible to encourage articulation from associate degree nursing programs to baccalaureate of science degree nursing programs. Persons who otherwise meet the standards of subdivision (a) shall be eligible for educational loans when they are enrolled in associate degree nursing programs. If these persons complete a baccalaureate of science degree nursing program in California within five years of obtaining an associate degree in nursing and meet the standards of this article, these loans shall be completely forgiven.

(e) As used in this section, "eligible county health facility" means a county health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

(f) As used in this section, "eligible state-operated health facility" means a state-operated health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

(g) *The "direct patient care" requirement in paragraph (1) of subdivision (a) shall not be construed to prohibit a school nurse, as described in Section 49426 of the Education Code, from performing services specified in that section, including, but not limited to, teaching.*

SEC. 2. Section 128390 of the Health and Safety Code is amended to read:

128390. The funds made available pursuant to this article shall be used as specified in ~~Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code~~ Article 1 (commencing with Section 128330) , except that the funds shall be used only for the purpose of assisting students in completing nursing programs meeting the standards specified in subdivision (j) of Section ~~69799 of the Education Code~~ 128350 .

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
FEBRUARY 20, 2009
BILL ANALYSIS**

AUTHOR:	Alquist	BILL NUMBER:	SB 43
SPONSOR:	Alquist	BILL STATUS:	Senate
SUBJECT:	Health Professions	DATE LAST AMENDED:	01/06/09

SUMMARY:

Existing law provides for the licensure and regulation of various healing arts by boards within the Department of Consumer Affairs. Existing law establishes the Task Force on Culturally and Linguistically Competent Physicians and Dentists and assigns the task force various duties, including, among other things, identifying the key cultural elements necessary to meet cultural competency. Existing law authorizes physicians and surgeons, dentists, and dental auxiliaries to report information regarding their cultural background and foreign language proficiency to their respective licensing boards and requires those boards to collect that information, as specified.

Existing law requires the Office of Statewide Health Planning and Development to establish a health care workforce clearinghouse to serve as the central source of health care workforce and educational data in the state. Existing law requires the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes.

This bill would add a section to the Business and Professions Code and amend a section of the Unemployment Insurance Code, relating to health professionals.

ANALYSIS:

This bill would authorize the healing arts boards to collect information regarding the cultural and linguistic competency of persons licensed, certified, registered, or otherwise subject to regulation by the boards. The bill would require that this information be used for the purpose of meeting the cultural and linguistic concerns of the state's diverse patient population.

The bill would require the Director of the Employment Development Department to permit the use of the information, to enable the Office of Statewide Health Planning and Development to obtain labor market, workforce, and earnings data for the purpose of collecting health care workforce data for the health care workforce clearinghouse.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

BILL NUMBER: SB 43 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Alquist

JANUARY 6, 2009

An act to add Section 851.5 to the Business and Professions Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to health professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as introduced, Alquist. Health professions.

Existing law provides for the licensure and regulation of various healing arts by boards within the Department of Consumer Affairs. Existing law establishes the Task Force on Culturally and Linguistically Competent Physicians and Dentists and assigns the task force various duties, including, among other things, identifying the key cultural elements necessary to meet cultural competency. Existing law authorizes physicians and surgeons, dentists, and dental auxiliaries to report information regarding their cultural background and foreign language proficiency to their respective licensing boards and requires those boards to collect that information, as specified.

This bill would authorize the healing arts boards, as defined, to collect information regarding the cultural and linguistic competency of persons licensed, certified, registered, or otherwise subject to regulation by those boards. The bill would require that this information be used for the purpose of meeting the cultural and linguistic concerns of the state's diverse patient population.

Existing law requires the Office of Statewide Health Planning and Development to establish a health care workforce clearinghouse to serve as the central source of health care workforce and educational data in the state. Existing law requires the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes.

This bill would additionally require the director to permit the use of that information in order to enable the Office of Statewide Health Planning and Development to obtain specified data for the health care workforce clearinghouse.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 851.5 is added to the Business and Professions Code, to read:

851.5. (a) A healing arts board referred to in this division may, in a manner deemed appropriate by the board, collect information regarding the cultural and linguistic competency of persons licensed, certified, registered, or otherwise subject to regulation by that board.

(b) The information collected pursuant to this section shall be used for the purpose of meeting the cultural and linguistic concerns of the state's diverse patient population.

(c) Personally identifiable information collected pursuant to this section shall be confidential and not subject to public inspection.

(d) The authority provided in this section shall be in addition to, and not a limitation on, the authority provided under subdivision (c) of Section 2425.3 and subdivision (d) of Section 1717.5.

(e) For purposes of this section, "board" refers to any healing arts board, division, or examining committee that licenses, certifies, or regulates health professionals pursuant to this division.

SEC. 2. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:

(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).

(e) To enable an employer to receive a reduction in contribution rate.

(f) To enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, where the verification or determination is directly connected with, and limited to, the administration of public social services.

(g) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

(h) To enable state or local governmental departments or agencies to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or to enable the collection of expenditures for medical assistance services pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(i) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code, or by any federal law enforcement officer to whom the Attorney General has delegated authority to enforce federal search warrants, as defined under Sections 60.2 and 60.3 of Title 28 of the Code of Federal Regulations, as amended, and when the requesting officer has been designated by the head of the law enforcement agency and requests this information in the course of and as a part of an investigation

into the commission of a crime when there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency.

(1) This subdivision shall not be construed to authorize the release to any law enforcement agency of a general list identifying individuals applying for or receiving benefits.

(2) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(3) This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

(4) The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant or in the event of an investigation by a law enforcement agency into the commission of a felony.

(j) To provide public employee retirement systems in California with information relating to the earnings of any person who has applied for or is receiving a disability income, disability allowance, or disability retirement allowance, from a public employee retirement system. The earnings information shall be released only upon written request from the governing board specifying that the person has applied for or is receiving a disability allowance or disability retirement allowance from its retirement system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(k) To enable the Division of Labor Standards Enforcement in the Department of Industrial Relations to seek criminal, civil, or administrative remedies in connection with the failure to pay, or the unlawful payment of, wages pursuant to Chapter 1 (commencing with Section 200) of Part 1 of Division 2 of, and Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of, the Labor Code.

() To enable federal, state, or local governmental departments or agencies to administer child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(m) To provide federal, state, or local governmental departments or agencies with wage and claim information in its possession that will assist those departments and agencies in the administration of the Victims of Crime Program or in the location of victims of crime who, by state mandate or court order, are entitled to restitution that has been or can be recovered.

(n) To provide federal, state, or local governmental departments or agencies with information concerning any individuals who are or have been:

(1) Directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law.

(2) Delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by those agencies. The information released by the director for the purposes of this paragraph shall not include

unemployment insurance benefit information.

(o) To provide an authorized governmental agency with any or all relevant information that relates to any specific workers' compensation insurance fraud investigation. The information shall be provided to the extent permitted by federal law and regulations. For the purposes of this subdivision, "authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Industrial Relations, and the Department of Insurance. An authorized governmental agency may disclose this information to the State Bar, the Medical Board of California, or any other licensing board or department whose licensee is the subject of a workers' compensation insurance fraud investigation. This subdivision shall not prevent any authorized governmental agency from reporting to any board or department the suspected misconduct of any licensee of that body.

(p) To enable the Director of the Bureau for Private Postsecondary and Vocational Education, or his or her representatives, to access unemployment insurance quarterly wage data on a case-by-case basis to verify information on school administrators, school staff, and students provided by those schools who are being investigated for possible violations of Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code.

(q) To provide employment tax information to the tax officials of Mexico, if a reciprocal agreement exists. For purposes of this subdivision, "reciprocal agreement" means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information that is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California residents. Taxing authorities of Mexico shall be granted tax information only on Mexican nationals.

(r) To enable city and county planning agencies to develop economic forecasts for planning purposes. The information shall be limited to businesses within the jurisdiction of the city or county whose planning agency is requesting the information, and shall not include information regarding individual employees.

(s) To provide the State Department of Developmental Services with wage and employer information that will assist in the collection of moneys owed by the recipient, parent, or any other legally liable individual for services and supports provided pursuant to Chapter 9 (commencing with Section 4775) of Division 4.5 of, and Chapter 2 (commencing with Section 7200) and Chapter 3 (commencing with Section 7500) of Division 7 of, the Welfare and Institutions Code.

(t) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

(u) The disclosure of the name and address of an individual or business entity that was issued an assessment that included penalties under Section 1128 or 1128.1 shall not be in violation of Section 1094 if the assessment is final. The disclosure may also include any of the following:

(1) The total amount of the assessment.

(2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.

(3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

(v) To enable the Contractors' State License Board to verify the employment history of an individual applying for licensure pursuant

to Section 7068 of the Business and Professions Code.

(w) To provide any peace officer with the Division of Investigation in the Department of Consumer Affairs information pursuant to subdivision (i) when the requesting peace officer has been designated by the Chief of the Division of Investigation and requests this information in the course of and as part of an investigation into the commission of a crime or other unlawful act when there is reasonable suspicion to believe that the crime or act may be connected to the information requested and would lead to relevant information regarding the crime or unlawful act.

(x) To enable the Labor Commissioner of the Division of Labor Standards Enforcement in the Department of Industrial Relations to identify, pursuant to Section 90.3 of the Labor Code, unlawfully uninsured employers. The information shall be provided to the extent permitted by federal law and regulations.

(y) To enable the Chancellor of the California Community Colleges, in accordance with the requirements of Section 84754.5 of the Education Code, to obtain quarterly wage data, commencing January 1, 1993, on students who have attended one or more community colleges, to assess the impact of education on the employment and earnings of students, to conduct the annual evaluation of district-level and individual college performance in achieving priority educational outcomes, and to submit the required reports to the Legislature and the Governor. The information shall be provided to the extent permitted by federal statutes and regulations.

(z) To enable the Public Employees' Retirement System to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, benefits provided under Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code.

(aa) To enable the Office of Statewide Health Planning and Development to obtain labor market, workforce, and earnings data for the purpose of collecting health care workforce data for the health care workforce clearinghouse established pursuant to Section 128050 of the Health and Safety Code.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 851.5 to the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of healing arts licensees, it is necessary to ensure that personally identifiable information submitted by licensees pursuant to this act is protected as confidential.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
FEBRUARY 20, 2009
BILL ANALYSIS**

AUTHOR:	Aanestad	BILL NUMBER:	SB 92
SPONSOR:	Aanestad	BILL STATUS:	Senate
SUBJECT:	Health care reform	DATE LAST AMENDED:	1/21/09

SUMMARY:

Existing law defines the term "medical assistant" and sets forth the scope of services a medical assistant is authorized to perform. Existing law provides that a medical assistant may administer medication upon the specific authorization and supervision of a licensed physician and surgeon or licensed podiatrist or, in specified clinic settings, upon the specific authorization and supervision of a nurse practitioner, nurse-midwife, or physician assistant.

This bill would amend sections of the Business and Professions Code, and other codes, relating to health care.

ANALYSIS

This bill, among other provisions, would remove the requirement that a medical assistant's administration of medication, upon the specific authorization and supervision of a nurse practitioner, nurse-midwife, or physician assistant, occur in specified clinic settings. This **implies** that the medical assistant would be able administer medications in other settings. But, there is current law in the bill that states, "a medical assistant may not be employed for inpatient care in a licensed general acute care hospital".

This bill would, also, **change** the language that refers to a supervising physician and surgeon to that of a **licensed physician and surgeon** when referencing nurse practitioners and medical assistants, such as:

The ~~supervising licensed physician and surgeon at a clinic described in paragraph (1)~~ may, at his or her discretion, in consultation with the nurse practitioner, nurse-midwife, or physician assistant, provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. These written instructions may provide that the supervisory function for the medical assistant for these tasks or supportive services may be delegated to the nurse practitioner, nurse-midwife, or physician assistant within the standardized procedures or protocol, and that tasks may be performed when the ~~supervising~~ **licensed physician and surgeon** is not onsite.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SB 92

*Note: The provisions referenced in this analysis are located in Section 2069 of the Business and Professions Code

BILL NUMBER: SB 92 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Aanestad

JANUARY 21, 2009

An act to amend Section 2069 of the Business and Professions Code, to add Section 1815.5 to the Financial Code, to add Sections 22830.5, 22830.6, 22869.5, and 22917 to the Government Code, to amend Sections 1357, 1357.03, 1357.06, 1357.14, 1367.01, 1374.32, 1374.33, and 1374.58 of, to add Sections 1346.2, 1349.3, and 1367.38 to, and to add Article 12 (commencing with Section 1399.830) to Chapter 2.2 of Division 2 of, the Health and Safety Code, to amend Sections 10121.7, 10123.135, 10169.2, 10169.3, 10700, 10705, 10706, and 10708 of, to add Sections 699.6, 10123.56, and 12938.1 to, to add Chapter 9.7 (commencing with Section 10920) to Part 2 of Division 2 of, and to add Article 7 (commencing with Section 11885) to Chapter 4 of Part 3 of Division 2 of, the Insurance Code, to amend Sections 511 and 515 of, and to add Section 96.8 to, the Labor Code, to amend Sections 17072, 17215, and 19184 of, to add Sections 17053.91, 17053.102, 17053.103, 17138.5, 17138.6, and 17216 to, and to add and repeal Sections 17053.58, 17053.77, 17204, 23658, and 23677 of, the Revenue and Taxation Code, and to amend Sections 14043.26 and 14133 of, to add Sections 14026.7, 14029.7, 14079.7, 14132.104, 14132.105, and 14164.5 to, to add Article 2.94 (commencing with Section 14091.50) to Chapter 7 of Part 3 of Division 9 of, and to add Division 23 (commencing with Section 23000) to, the Welfare and Institutions Code, relating to health care, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 92, as introduced, Aanestad. Health care reform.

(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (the Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the Knox-Keene Act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance.

The Knox-Keene Act requires, subject to specified exceptions, that a health care service plan be licensed by the department and provide basic health care services, as defined, among other benefits, unless exempted from that requirement by the director of the department. Existing law also requires, subject to specified exceptions, that an insurer obtain a certificate of authority from the Insurance Commissioner in order to transact business in this state and that the insurer operate in accordance with specified requirements.

This bill would allow a carrier domiciled in another state to offer, sell, or renew a health care service plan contract or a health insurance policy in this state without holding a license issued by the department or a certificate of authority issued by the commissioner. The bill would exempt the carrier's plan contract or policy from requirements otherwise applicable to plans and insurers providing health care coverage in this state if the plan contract or policy complies with the domiciliary state's requirements, and the carrier is lawfully authorized to issue the plan contract or policy in that state and to transact business there.

The bill would also authorize health care service plans and health insurers to offer, market, and sell individual health care service plan contracts and individual health insurance policies that do not include all of the benefits mandated under state law to individuals with income below 350% of the federal poverty level if the individual waives those benefits, as specified, and the plan contract or insurance policy is approved by the Director of the Department of Managed Health Care or the Insurance Commissioner.

(2) Under existing law, health care service plans and health insurers are required to include certain benefits in their contracts and policies. Existing federal law authorizes an individual who has a high deductible health plan to make tax deductible contributions to a Health Savings Account that may be used to pay medical expenses.

This bill would require the Director of the Department of Managed Health Care and the Insurance Commissioner to encourage the design of health care service plan contracts and health insurance policies that conform to current federal requirements for high deductible health plans used in conjunction with Health Savings Accounts and to standardize the process used to review and approve new health care service plan contracts and health insurance policies. The bill would require the director and the commissioner to report specified information to the Legislature regarding those requirements.

The bill would also authorize group health care service plan contracts and group health insurance policies to offer to include a Healthy Action Incentives and Rewards Program, as specified.

(3) Existing law imposes certain requirements on health care service plans and health insurers to enable small employers to access health care coverage. Existing law requires health care service plans and health insurers to sell to any small employer any of the benefit plan designs it offers to small employers and prohibits plans and insurers, among others, from encouraging or directing small employers to refrain from filing an application for coverage with the plan or insurer, and from encouraging or directing small employers to seek coverage from another carrier, because of the health status, claims experience, industry, occupation, or geographic location within the carrier's approved service area of the small employer or the small employer's employees.

This bill would also prohibit a plan or insurer from taking either of those actions because of the employer's implementation of, or intent to implement, any form of claim support for covered employees, as specified.

Existing law defines "small employer" for these purposes to include a guaranteed association that purchases health care coverage for its members. Existing law defines "guaranteed association" to mean a nonprofit organization of individuals or employers that meets certain requirements, including having been in active existence and having included health coverage as a membership benefit for at least 5 years prior to January 1, 1992, and covering at least 1,000 persons in that regard.

This bill would delete the requirements for a guaranteed association to have been in active existence and to have included health care coverage as a membership benefit for at least 5 years prior to January 1, 1992. The bill would reduce the required number of persons covered by health coverage provided through the guaranteed association from 1,000 to 100. The bill would also define "small employer" to include an eligible association that purchases health care coverage for its members and would define an eligible association as a community or civic group or a charitable or religious organization.

Because a willful violation of these requirements with respect to

health care service plans would be a crime, the bill would impose a state-mandated local program.

(4) Existing law requires health care service plans and specified disability insurers to have written policies and procedures establishing the process by which the plans or insurers prospectively, retrospectively, or concurrently review and approve, modify, delay, or deny, based in whole or in part on medical necessity, requests by providers of health care services for enrollees or insureds. Existing law imposes specified requirements on that process and specifies that only a licensed physician or licensed health care professional with specified competency may deny or modify requests for authorization of health care services.

This bill would authorize a licensed health care professional, other than a person licensed to practice medicine, to deny or modify requests only with respect to services that fall within his or her scope of practice and subject to standardized protocol limitations or supervision requirements applicable under his or her license. The bill would also prohibit a physician or other health care professional from denying or modifying a request without first conducting a good faith examination of the enrollee, except as specified.

Existing law establishes an independent medical review system in which an independent medical review organization reviews grievances involving a disputed health care service under a health care service plan contract or disability insurance policy. Existing law requires that medical professionals selected by that organization to conduct reviews be either physicians holding a specified certification or other appropriate providers holding a nonrestricted license in any state.

This bill would require those physicians and other providers to be licensed in California and would limit the reviews conducted by those other providers, as specified.

Existing law requires the medical reviewers selected to conduct a review to review specified information, including, but not limited to, provider reports and all pertinent medical records of the enrollee or insured.

This bill would also require that at least one of those medical professional reviewers conduct a good faith examination of the enrollee, except as specified.

Because a willful violation of these requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

(5) Existing law provides for insurers to be admitted to transact business in specified types of insurance, including workers' compensation insurance.

This bill would allow any insurer admitted to transact health insurance or workers' compensation insurance, or a health care service plan licensed pursuant to the Knox-Keene Act, to make written application to the commissioner for a license to offer a single policy that provides health care coverage and workers' compensation benefits.

(6) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive various health care services and benefits. Existing law prescribes various requirements governing reimbursement rates for these services.

This bill would require, on January 1, 2010, the reimbursement levels for fee-for-service physician services under Medi-Cal to be increased to 80% of the amount that the federal Medicare Program reimburses for these same services in Area 9 (Santa Clara County),

and would thereafter require the rates to be increased annually in accordance with the California Consumer Price Index.

The bill would require the department, before making any adjustment to Medi-Cal reimbursement rates, to consider the ability of Medi-Cal beneficiaries to access physician services by geography and specialty and to request data from the Office of Statewide Health Planning and Development to allow the department to determine the extent of Medi-Cal physician shortages, if any, by geography and specialty.

The bill would require the department to ensure the existence and operation of a single searchable Internet Web site, accessible by the public at no cost, that specifies Medi-Cal expenditures, including a line item breakdown of administrative overhead and provider and health care expenses.

The bill would require the department to prepare and submit a proposal for a demonstration project by July 31, 2010, for participation in the federal Medicaid Demonstration Project for Health Opportunity Accounts and would specify the details of that demonstration project.

The bill would also require the department, on or before January 1, 2011, to provide or arrange for the provision of an electronic personal health record and an electronic personal benefits record for beneficiaries of the Medi-Cal program. The bill would additionally authorize the department to establish a Healthy Action Incentives and Rewards Program as a covered benefit under the Medi-Cal program, subject to federal financial participation and approval.

The bill would state the intent of the Legislature to enact legislation that would realign Medi-Cal benefits to more closely resemble benefits offered through private health care coverage.

The bill would also state the intent of the Legislature to enact legislation that would establish a pilot project that utilizes a self-directed "cash and counseling" model for providing Medi-Cal services to disabled Medi-Cal enrollees. Under a "cash and counseling" model, disabled Medi-Cal enrollees, with assistance from family members and Medi-Cal case managers, would be given an individual budget to manage and direct payment for their personal care services and enable them to determine which supportive services they want and from whom they wish to have these services delivered.

Under existing law, the Director of Health Care Services may contract with any qualified individual, organization, or entity to provide services to, arrange for, or case manage the care of Medi-Cal beneficiaries subject to specified requirements.

This bill would state the intent of the Legislature to enact legislation that would establish a pilot project in which Medi-Cal managed care is used as a platform to transition from a defined-benefit system, where the state pays for services used based on a defined set of benefits, to a defined-contribution system, where Medi-Cal enrollees would be assigned a risk-adjusted amount to purchase private health care coverage.

Existing law requires an applicant that is not currently enrolled as a provider in the Medi-Cal program, a provider required to apply for continued enrollment, or a provider not currently enrolled at a location where the provider intends to provide Medi-Cal goods or services to submit a complete application package for enrollment, continuing enrollment, or enrollment at a new location, except as specified. Existing law requires the department to provide, within 30 days of receipt, written notice that the application package has been received, except as specified. Applicants or providers that meet certain criteria may be granted preferred provisional provider status for up to 18 months.

This bill would, notwithstanding any other provision of law, additionally provide that, on and after January 1, 2010, certain licensed health care providers submitting an application to the department pursuant to the above provisions shall be granted preferred provisional provider status, effective from the date the department received their application, if the applicant is in good standing as a provider under the federal Medicare Program and with his or her state licensing board.

This bill would require the department to provide written notice to the applicant that the application package has been received within 15 days after receiving the application. The bill would require the department to provide successful applicants with written notice of their preferred provisional provider status within 30 days after receiving the application.

Existing law establishes, within the office of the Attorney General, the Bureau of Medi-Cal Fraud for the investigation and prosecution of violations of applicable laws pertaining to the Medi-Cal program, and to review complaints alleging abuse or neglect of patients in health care facilities receiving payments under the Medi-Cal program.

This bill would require the State Department of Health Care Services to establish a computer modeling program to be used to prevent and identify Medi-Cal fraud. The bill would require the computer modeling program to alert the department when providers engage in specified billing behavior. The bill would require the department, upon receiving the alert, to conduct a Medi-Cal fraud investigation if the department determines an investigation is appropriate under the circumstances.

Existing law, administered by the State Department of Public Health, provides for the licensure and regulation of various clinics, including primary care clinics, as defined.

Existing law establishes the Medi-Cal Hospital/Uninsured Care Demonstration Project Act that revises hospital reimbursement methodologies in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals.

This bill would require the Director of Health Care Services to provide to the Legislature, no later than July 1, 2010, a plan to permit these funds to be used for the purpose of creating new, and expanding existing, primary care clinics.

Under existing law, one of the utilization controls to which services are subject under the Medi-Cal program is the treatment authorization request process, which is approval by a department consultant of a specified service in advance of the rendering of that service based upon a determination of medical necessity. Other utilization controls include postservice prepayment audits and postservice postpayment audits, that involve reviews for medical necessity and program coverage.

This bill would, instead, provide that treatment authorization requests shall be approved based upon a determination that the service is covered under Medi-Cal. The bill would also provide that postservice prepayment audits and postservice postpayment audits shall only involve reviews for program coverage.

(7) Existing law allows the Controller, in his or her discretion, to offset any amount due to a state agency by a person or entity against any amount owed to that person or entity by a state agency.

Existing law requires the Controller, to the extent feasible, to offset any amount overdue and unpaid for a fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services, from a person or entity, against any amount

owed to the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law or from winnings in the California State Lottery.

This bill would permit a hospital or health care provider, as defined, that provides health care services to an uninsured individual who does not qualify for government health care benefits to file a claim with the State Department of Health Care Services to be reimbursed for those services if the recipient of the services does not pay for those services. The bill would require the Director of Health Care Services to certify the debt owed to the hospital or health care provider to the Franchise Tax Board and the California Lottery Commission in order to have the debt satisfied with any tax refund or lottery winnings owed to the debtor, as specified.

(8) Under the Public Employees' Medical and Hospital Care Act, the Board of Administration of the Public Employees' Retirement System contracts for and administers health care benefit plans for public employees and annuitants. Existing state and federal income tax laws allow a deduction for contributions to a qualifying medical savings account by a taxpayer who is covered under a high deductible health plan, as defined. Money within this type of account may be used to pay for qualified medical expenses, as defined.

This bill would require the board to offer a high deductible health plan, as defined in the federal tax law, and a Health Savings Account option to public employees and annuitants, as specified. The bill would establish the Public Employees' Health Savings Fund, a continuously appropriated trust fund within the State Treasury, for payment of qualified medical expenses of eligible employees and annuitants who elect to enroll in the high deductible health plan and participate in the Health Savings Account option, and would require those employees and annuitants, and their employers, to make specified contributions to that fund, thereby making an appropriation.

The bill would also require the board, on or before January 1, 2011, to provide or arrange for the provision of an electronic personal health record and an electronic personal benefits record for enrollees receiving health care benefits. The bill would additionally authorize the board to provide a Healthy Action Incentives and Rewards Program to its enrollees, as specified.

(9) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2010, and before January 1, 2015, in an amount equal to the amount paid or incurred during the taxable year for qualified health expenses, as defined, that do not exceed specified amounts.

This bill would authorize a credit against personal income taxes for each taxable year beginning on or after January 1, 2009, in an amount equal to 25% of the tax imposed on a medical care professional who provides medical services in a rural area. The bill would also authorize a credit against personal income taxes, as specified, for a primary care provider, as defined, and for uncompensated medical care provided by a physician.

This bill would authorize a credit under the Personal Income Tax Law and the Corporation Tax Law for each taxable year beginning on or after January 1, 2009, and before January 1, 2015, in an amount equal to 15% of the amount paid or incurred by a qualified taxpayer, as defined, during the taxable year for qualified health insurance, as defined, for employees of the taxpayer. This bill would require the Legislative Analyst to report to the Legislature on or before

March 1, 2014, on the effectiveness of the credit, as specified.

The Personal Income Tax Law authorizes various deductions in computing income subject to taxation.

This bill would allow a deduction in computing adjusted gross income for the costs of health insurance, as provided. This bill would also allow a deduction in connection with Health Savings Accounts in conformity with federal law. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by, or on behalf of, an eligible individual, as defined, to a Health Savings Account of that individual, as provided. This bill would also provide related conformity to that federal law with respect to treatment of the account as a tax-exempt trust, the allowance of rollovers from Archer Medical Savings Accounts to a Health Savings Account, and penalties in connection therewith.

(10) Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law authorizes the adoption by 2/3 of employees in a work unit of alternative workweek schedules providing for workdays no longer than 10 hours within a 40-hour workweek.

This bill would authorize an individual employee employed by an employer with 50 or fewer employees that offers health care coverage benefits to its employees to request a work schedule of up to 10 hours per day within a 40-hour workweek, and would authorize an employer to implement this schedule without any obligation to pay overtime compensation for hours worked as part of the schedule. The bill would enact related provisions and would make other conforming and technical changes.

The bill would also authorize an employer to provide health coverage that includes a Healthy Action Incentives and Rewards Program to his or her employees. In addition, the bill would state the intent of the Legislature to enact legislation providing incentives to employers who offer health insurance, flex-time work schedules, and other benefits agreed upon by employers and employees.

(11) Existing law defines the term "medical assistant" and sets forth the scope of services a medical assistant is authorized to perform. Existing law provides that a medical assistant may administer medication upon the specific authorization and supervision of a licensed physician and surgeon or licensed podiatrist or, in specified clinic settings, upon the specific authorization and supervision of a nurse practitioner, nurse-midwife, or physician assistant.

This bill would remove the requirement that a medical assistant's administration of medication upon the specific authorization and supervision of a nurse practitioner, nurse-midwife, or physician assistant occur in specified clinic settings, and would make related changes.

(12) Existing law provides for the licensure and regulation by the Commissioner of Financial Institutions of money transmitters, who receive money in this state for transmission to foreign countries, and makes a violation of these provisions a crime.

This bill would require a licensee, or its agent, to collect a 3% fee on any money transmission received from a client who is unable to provide documentation of lawful presence in the United States. The bill would require the deposit of the fee in an unspecified fund to be used to pay for emergency medical care provided in this state to persons without documentation of legal residence in the United States.

Because a violation of this requirement would be a crime, the bill

would impose a state-mandated local program.

In addition, the bill would memorialize the Congress and President of the United States to enact legislation that would provide full reimbursement for the costs of providing federally mandated health care services to anyone, regardless of immigration status.

(13) Existing law regulates the establishment and operation of hospitals, including emergency rooms.

This bill would state the intent of the Legislature to enact legislation that would allow hospitals to offer preventative medical services delivered through the hospital's primary care or community-based clinic.

(14) The bill would enact other related provisions and make various technical, nonsubstantive changes.

(15) This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2069 of the Business and Professions Code is amended to read:

2069. (a) (1) Notwithstanding any other provision of law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon , nurse practitioner, nurse-midwife, physician assistant, or ~~a~~ licensed podiatrist. ~~A medical assistant may also perform all these tasks and services in a clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code upon the specific authorization of a physician assistant, a nurse practitioner, or a nurse midwife.~~

(2) The ~~supervising~~ licensed physician and surgeon ~~at a clinic described in paragraph (1)~~ may, at his or her discretion, in consultation with the nurse practitioner, nurse-midwife, or physician assistant , provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. These written instructions may provide that the supervisory function for the medical assistant for these tasks or supportive services may be delegated to the nurse practitioner, nurse-midwife, or physician assistant within the standardized procedures or protocol, and that tasks may be performed when the ~~supervising~~ licensed physician and surgeon is not onsite, so long as the following apply:

(A) The nurse practitioner or nurse-midwife is functioning pursuant to standardized procedures, as defined by Section 2725, or protocol. The standardized procedures or protocol shall be developed and approved by the supervising physician and surgeon, the nurse

practitioner or nurse-midwife, and the facility administrator or his or her designee.

(B) The physician assistant is functioning pursuant to regulated services defined in Section 3502 and is approved to do so by the supervising physician or surgeon.

(b) As used in this section and Sections 2070 and 2071, the following definitions shall apply:

(1) "Medical assistant" means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a medical , nursing, or podiatry corporation, for a physician assistant, a nurse practitioner, or a nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Licensing. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

(2) "Specific authorization" means a specific written order prepared by the ~~supervising licensed~~ physician and surgeon ~~or the supervising~~ , ~~licensed podiatrist, or the~~ physician assistant, ~~the nurse practitioner, or the~~ nurse-midwife ~~as provided in subdivision (a)~~, authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the ~~supervising licensed~~ physician and surgeon ~~or the supervising~~ , ~~licensed podiatrist, or the~~ physician assistant, ~~the nurse practitioner, or~~ ~~the nurse-midwife as provided in subdivision (a)~~ , authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be placed on the patient's medical record.

(3) "Supervision" means the supervision of procedures authorized by this section by the following practitioners, within the scope of their respective practices, who shall be physically present in the treatment facility during the performance of those procedures:

(A) A licensed physician and surgeon.

(B) A licensed podiatrist.

(C) A physician assistant, nurse practitioner, or nurse-midwife ~~as provided in subdivision (a)~~ .

(4) "Technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon ~~or~~ , a licensed podiatrist, ~~or~~ a physician assistant, a nurse practitioner, or a nurse-midwife ~~as provided in subdivision (a)~~ .

(c) Nothing in this section shall be construed as authorizing the licensure of medical assistants. Nothing in this section shall be construed as authorizing the administration of local anesthetic agents by a medical assistant. Nothing in this section shall be construed as authorizing the division to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052.

(d) Notwithstanding any other provision of law, a medical

assistant may not be employed for inpatient care in a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(e) Nothing in this section shall be construed as authorizing a medical assistant to perform any clinical laboratory test or examination for which he or she is not authorized by Chapter 3 (commencing with Section ~~1206.5~~) 1200)

. Nothing in this section shall be construed as authorizing a nurse practitioner, nurse-midwife, or physician assistant to be a laboratory director of a clinical laboratory, as those terms are defined in paragraph (7) of subdivision (a) of Section 1206 and subdivision (a) of Section 1209.

SEC. 2. Section 1815.5 is added to the Financial Code, to read:

1815.5. A licensee, or its agent, shall collect a 3 percent fee on transmission money received from a customer who is unable to provide documentation of lawful presence in the United States. This fee shall be deposited in the ____ Fund, which is hereby established in the State Treasury, to be used to pay for emergency medical care provided in this state to persons without documentation of legal residence in the United States. The fee imposed pursuant to this subdivision shall be in addition to any other applicable fees.

SEC. 3. Section 22830.5 is added to the Government Code, to read:

22830.5. (a) On or before January 1, 2011, the board shall provide or arrange for the provision of an electronic personal health record (PHR) and an electronic personal benefits record (PBR) for enrollees receiving health care benefits. The records shall be provided for the purpose of providing enrollees with information to assist them in understanding their coverage benefits and managing their health care.

(b) The PBR shall provide access to real-time, patient-specific information regarding eligibility for covered benefits, cost-sharing requirements, and claims history. That access may be provided through the use of an Internet-based system. Inclusion of this data shall be at the option of the enrollee.

(c) The PHR shall incorporate personal health information, including, but not limited to, medical history, laboratory results, prescription history, and other personal health information authorized or provided by the enrollee. The PHR shall not be provided through the use of an Internet-based system. Inclusion of this additional data shall be at the option of the enrollee.

(d) Systems, software, or devices that pertain to the PBR and PHR shall adhere to accepted national standards for interoperability, privacy, and data exchange, or shall be certified by a nationally recognized certification body.

(e) The PBR and PHR shall comply with applicable state and federal confidentiality and data security requirements.

SEC. 4. Section 22830.6 is added to the Government Code, to read:

22830.6. The board may provide or arrange for the provision of a Healthy Action Incentives and Rewards Program, as described in subdivision (b) of Section 1367.38 of the Health and Safety Code, to all enrollees.

SEC. 5. Section 22869.5 is added to the Government Code, to read:

22869.5. (a) The board shall offer a Health Savings Account option to all employees and annuitants. In addition to the basic health benefit plans described in Sections 22830 and 22850, and notwithstanding any other provision of this part, the board shall approve at least one high deductible health plan, as defined in Section 223(c)(2) of the Internal Revenue Code.

(b) The design and administration of the Health Savings Account option shall comply with the standards provided in Section 223 of the

SEC. 51. Section 14043.26 of the Welfare and Institutions Code is amended to read:

14043.26. (a) (1) On and after January 1, 2004, an applicant that currently is not enrolled in the Medi-Cal program, or a provider applying for continued enrollment, upon written notification from the department that enrollment for continued participation of all providers in a specific provider of service category or subgroup of that category to which the provider belongs will occur, or, except as provided in subdivisions (b) and (e), a provider not currently enrolled at a location where the provider intends to provide services, goods, supplies, or merchandise to a Medi-Cal beneficiary, shall submit a complete application package for enrollment, continuing enrollment, or enrollment at a new location or a change in location.

(2) Clinics licensed by the department pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(3) Health facilities licensed by the department pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(4) Adult day health care providers licensed pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(5) Home health agencies licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(6) Hospices licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(b) A physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California practicing in an individual physician practice, who is enrolled and in good standing in the Medi-Cal program, and who is changing locations of that individual physician practice within the same county, shall be eligible to continue enrollment at the new location by filing a change of location form to be developed by the department. The form shall comply with all minimum federal requirements related to Medicaid provider enrollment. Filing this form shall be in lieu of submitting a complete application package pursuant to subdivision (a).

(c) (1) Except as provided in paragraph (2), within 30 days after receiving an application package submitted pursuant to subdivision (a), the department shall provide written notice that the application package has been received and, if applicable, that there is a moratorium on the enrollment of providers in the specific provider of service category or subgroup of the category to which the applicant or provider belongs. This moratorium shall bar further processing of the application package.

(2) Within 15 days after receiving an application package from a physician, or a group of physicians, licensed by the Medical Board of California or the Osteopathic Medical Board of California, or a change of location form pursuant to subdivision (b), the department shall provide written notice that the application package or the change of location form has been received.

(d) (1) ~~If~~ Except as provided in paragraph

(4), if the application package submitted pursuant to subdivision (a) is from an applicant or provider who meets the criteria listed in paragraph (2), the applicant or provider shall be considered a preferred provider and shall be granted preferred provisional provider status pursuant to this section and for a period of no longer than 18 months, effective from the date on the notice from the department. The ability to request consideration as a preferred provider and the criteria necessary for the consideration shall be publicized to all applicants and providers. An applicant or provider who desires consideration as a preferred provider pursuant to this subdivision shall request consideration from the department by making a notation to that effect on the application package, by cover letter, or by other means identified by the department in a provider bulletin. Request for consideration as a preferred provider shall be made with each application package submitted in order for the department to grant the consideration. An applicant or provider who requests consideration as a preferred provider shall be notified within 60 days whether the applicant or provider meets or does not meet the criteria listed in paragraph (2). If an applicant or provider is notified that the applicant or provider does not meet the criteria for a preferred provider, the application package submitted shall be processed in accordance with the remainder of this section.

(2) ~~To~~ Except as provided in paragraph (4), to be considered a preferred provider, the applicant or provider shall meet all of the following criteria:

(A) Hold a current license as a physician and surgeon issued by the Medical Board of California or the Osteopathic Medical Board of California, which license shall not have been revoked, whether stayed or not, suspended, placed on probation, or subject to other limitation.

(B) Be a current faculty member of a teaching hospital or a children's hospital, as defined in Section 10727, accredited by the Joint Commission or the American Osteopathic Association, or be credentialed by a health care service plan that is licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) or county organized health system, or be a current member in good standing of a group that is credentialed by a health care service plan that is licensed under the Knox-Keene Act.

(C) Have full, current, unrevoked, and unsuspended privileges at a Joint Commission or American Osteopathic Association accredited general acute care hospital.

(D) Not have any adverse entries in the federal Healthcare Integrity and Protection Data Bank.

(3) The department may recognize other providers as qualifying as preferred providers if criteria similar to those set forth in paragraph (2) are identified for the other providers. The department shall consult with interested parties and appropriate stakeholders to identify similar criteria for other providers so that they may be considered as preferred providers.

(4) (A) For purposes of this paragraph, an applicant shall only include the following:

- (i) Dentists.
- (ii) Physicians and surgeons.
- (iii) Osteopathic physicians and surgeons.
- (iv) Nurse anesthetists.
- (v) Nurse practitioners.
- (vi) Physician assistants.

(B) Notwithstanding paragraphs (1) and (2) or any other provision

of law, on and after January 1, 2010, an applicant submitting an application to the department pursuant to subdivision (a) shall be granted preferred provisional provider status if he or she meets both the following conditions:

(i) The applicant is in good standing as a provider under the federal Medicare Program.

(ii) The applicant is in good standing with his or her state licensing board.

(C) In order for the department to determine if the applicant satisfies the conditions specified in subparagraph (B), the application package shall include the applicant's National Provider Identifier issued pursuant to Subpart D of Part 162 of Title 42 of the Code of Federal Regulations and state professional license number.

(D) Within 15 days after receiving an application package submitted pursuant to subdivision (a) from a provider to which this paragraph applies, the department shall provide written notice that the application package has been received.

(E) (i) If the application package is from an applicant who satisfies the conditions specified in subparagraph (B), the applicant shall be considered a preferred provisional provider and shall be granted preferred provisional provider status, effective from the date the department received the application package.

(ii) The department shall provide written notice to an applicant or provider informing them whether they meet the criteria listed in subparagraph (B) within 30 days after receiving the application package.

(e) (1) If a Medi-Cal applicant meets the criteria listed in paragraph (2), the applicant shall be enrolled in the Medi-Cal program after submission and review of a short form application to be developed by the department. The form shall comply with all minimum federal requirements related to Medicaid provider enrollment. The department shall notify the applicant that the department has received the application within 15 days of receipt of the application. The department shall issue the applicant a provider number or notify the applicant that the applicant does not meet the criteria listed in paragraph (2) within 90 days of receipt of the application.

(2) Notwithstanding any other provision of law, an applicant or provider who meets all of the following criteria shall be eligible for enrollment in the Medi-Cal program pursuant to this subdivision, after submission and review of a short form application:

(A) The applicant's or provider's practice is based in one or more of the following: a general acute care hospital, a rural general acute care hospital, or an acute psychiatric hospital, as defined in subdivisions (a) and (b) of Section 1250 of the Health and Safety Code.

(B) The applicant or provider holds a current, unrevoked, or unsuspended license as a physician and surgeon issued by the Medical Board of California or the Osteopathic Medical Board of California. An applicant or provider shall not be in compliance with this subparagraph if a license revocation has been stayed, the licensee has been placed on probation, or the license is subject to any other limitation.

(C) The applicant or provider does not have an adverse entry in the federal Healthcare Integrity and Protection Data Bank.

(3) An applicant shall be granted provisional provider status under this subdivision for a period of 12 months.

(f) Except as provided in subdivision (g), within 180 days after receiving an application package submitted pursuant to subdivision

(a), or from the date of the notice to an applicant or provider that the applicant or provider does not qualify as a preferred provider under subdivision (d), the department shall give written notice to the applicant or provider that any of the following applies, or shall on the 181st day grant the applicant or provider provisional provider status pursuant to this section for a period no longer than 12 months, effective from the 181st day:

(1) The applicant or provider is being granted provisional provider status for a period of 12 months, effective from the date on the notice.

(2) The application package is incomplete. The notice shall identify additional information or documentation that is needed to complete the application package.

(3) The department is exercising its authority under Section 14043.37, 14043.4, or 14043.7, and is conducting background checks, preenrollment inspections, or unannounced visits.

(4) The application package is denied for any of the following reasons:

(A) Pursuant to Section 14043.2 or 14043.36.

(B) For lack of a license necessary to perform the health care services or to provide the goods, supplies, or merchandise directly or indirectly to a Medi-Cal beneficiary, within the applicable provider of service category or subgroup of that category.

(C) The period of time during which an applicant or provider has been barred from reapplying has not passed.

(D) For other stated reasons authorized by law.

(g) Notwithstanding subdivision (f), within 90 days after receiving an application package submitted pursuant to subdivision (a) from a physician or physician group licensed by the Medical Board of California or the Osteopathic Medical Board of California, or from the date of the notice to that physician or physician group that does not qualify as a preferred provider under subdivision (d), or within 90 days after receiving a change of location form submitted pursuant to subdivision (b), the department shall give written notice to the applicant or provider that either paragraph (1), (2), (3), or (4) of subdivision (f) applies, or shall on the 91st day grant the applicant or provider provisional provider status pursuant to this section for a period no longer than 12 months, effective from the 91st day.

(h) (1) If the application package that was noticed as incomplete under paragraph (2) of subdivision (f) is resubmitted with all requested information and documentation, and received by the department within 60 days of the date on the notice, the department shall, within 60 days of the resubmission, send a notice that any of the following applies:

(A) The applicant or provider is being granted provisional provider status for a period of 12 months, effective from the date on the notice.

(B) The application package is denied for any other reasons provided for in paragraph (4) of subdivision (f).

(C) The department is exercising its authority under Section 14043.37, 14043.4, or 14043.7 to conduct background checks, preenrollment inspections, or unannounced visits.

(2) (A) If the application package that was noticed as incomplete under paragraph (2) of subdivision (f) is not resubmitted with all requested information and documentation and received by the department within 60 days of the date on the notice, the application package shall be denied by operation of law. The applicant or provider may reapply by submitting a new application package that shall be reviewed de novo.

(B) If the failure to resubmit is by a provider applying for continued enrollment, the failure shall make the provider also subject to deactivation of the provider's number and all of the business addresses used by the provider to provide services, goods, supplies, or merchandise to Medi-Cal beneficiaries.

(C) Notwithstanding subparagraph (A), if the notice of an incomplete application package included a request for information or documentation related to grounds for denial under Section 14043.2 or 14043.36, the applicant or provider shall not reapply for enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department or its agents or contractors for a period of three years.

(i) (1) If the department exercises its authority under Section 14043.37, 14043.4, or 14043.7 to conduct background checks, preenrollment inspections, or unannounced visits, the applicant or provider shall receive notice, from the department, after the conclusion of the background check, preenrollment inspection, or unannounced visit of either of the following:

(A) The applicant or provider is granted provisional provider status for a period of 12 months, effective from the date on the notice.

(B) Discrepancies or failure to meet program requirements, as prescribed by the department, have been found to exist during the preenrollment period.

(2) (A) The notice shall identify the discrepancies or failures, and whether remediation can be made or not, and if so, the time period within which remediation must be accomplished. Failure to remediate discrepancies and failures as prescribed by the department, or notification that remediation is not available, shall result in denial of the application by operation of law. The applicant or provider may reapply by submitting a new application package that shall be reviewed de novo.

(B) If the failure to remediate is by a provider applying for continued enrollment, the failure shall make the provider also subject to deactivation of the provider's number and all of the business addresses used by the provider to provide services, goods, supplies, or merchandise to Medi-Cal beneficiaries.

(C) Notwithstanding subparagraph (A), if the discrepancies or failure to meet program requirements, as prescribed by the director, included in the notice were related to grounds for denial under Section 14043.2 or 14043.36, the applicant or provider shall not reapply for three years.

(j) If provisional provider status or preferred provisional provider status is granted pursuant to this section, a provider number shall be used by the provider for each business address for which an application package has been approved. This provider number shall be used exclusively for the locations for which it is issued, unless the practice of the provider's profession or delivery of services, goods, supplies, or merchandise is such that services, goods, supplies, or merchandise are rendered or delivered at locations other than the provider's business address and this practice or delivery of services, goods, supplies, or merchandise has been disclosed in the application package approved by the department when the provisional provider status or preferred provisional provider status was granted.

(k) Except for providers subject to subdivision (c) of Section 14043.47, a provider currently enrolled in the Medi-Cal program at one or more locations who has submitted an application package for enrollment at a new location or a change in location pursuant to subdivision (a), or filed a change of location form pursuant to

subdivision (b), may submit claims for services, goods, supplies, or merchandise rendered at the new location until the application package or change of location form is approved or denied under this section, and shall not be subject, during that period, to deactivation, or be subject to any delay or nonpayment of claims as a result of billing for services rendered at the new location as herein authorized. However, the provider shall be considered during that period to have been granted provisional provider status or preferred provisional provider status and be subject to termination of that status pursuant to Section 14043.27. A provider that is subject to subdivision (c) of Section 14043.47 may come within the scope of this subdivision upon submitting documentation in the application package that identifies the physician providing supervision for every three locations. If a provider submits claims for services rendered at a new location before the application for that location is received by the department, the department may deny the claim.

(1) An applicant or a provider whose application for enrollment, continued enrollment, or a new location or change in location has been denied pursuant to this section, may appeal the denial in accordance with Section 14043.65.

(m) (1) Upon receipt of a complete and accurate claim for an individual nurse provider, the department shall adjudicate the claim within an average of 30 days.

(2) During the budget proceedings of the 2006-07 fiscal year, and each fiscal year thereafter, the department shall provide data to the Legislature specifying the timeframe under which it has processed and approved the provider applications submitted by individual nurse providers.

(3) For purposes of this subdivision, "individual nurse providers" are providers authorized under certain home- and community-based waivers and under the state plan to provide nursing services to Medi-Cal recipients in the recipients' own homes rather than in institutional settings.

(n) The amendments to subdivision (b), which implement a change of location form, and the addition of paragraph (2) to subdivision (c), the amendments to subdivision (e), and the addition of subdivision (g), which prescribe different processing timeframes for physicians and physician groups, as contained in Chapter 693 of the Statutes of 2007, shall become operative on July 1, 2008.

SEC. 52. Section 14079.7 is added to the Welfare and Institutions Code, to read:

14079.7. (a) (1) Notwithstanding any other provision of this chapter, on January 1, 2010, the reimbursement levels for fee-for-service physician services under Medi-Cal shall be increased to 80 percent of the amount that the federal Medicare Program reimburses for these same services in Area 9 (Santa Clara County). This reimbursement change shall apply only to services reimbursed at rates below 80 percent of the amount that the federal Medicare Program reimburses for these same services in Area 9.

(2) After the implementation of the rate increase described in paragraph (1), physician rates shall be increased annually in accordance with the California Consumer Price Index.

(b) The increase of reimbursement rates described in subdivision (a) shall be made for fee-for-service physician services rendered on or after January 1, 2010.

SEC. 53. Article 2.94 (commencing with Section 14091.50) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
FEBRUARY 20, 2009
BILL ANALYSIS**

AUTHOR:	Oropeza	BILL NUMBER:	SB 112
SPONSOR:	California Dialysis Council	BILL STATUS:	Senate
SUBJECT:	Hemodialysis Technicians	DATE LAST AMENDED:	Introduced 1/29/09

SUMMARY:

Existing federal law sets forth certain requirements that dialysis facilities must meet in order to be certified under the Medicare Program, including a requirement that patient care dialysis technicians at those facilities complete a specified training program, have a high school diploma or equivalency, be certified under a state or national certification program, and meet all applicable state requirements, as specified.

Existing law provides for the licensure and regulation of various clinical laboratory personnel and makes a violation of those provisions a crime. Within that law, the Hemodialysis Technician Training Act prohibits a person from providing services as a hemodialysis technician without being certified by the State Department of Public Health as meeting certain requirements, as specified. This bill would amend, repeal and add sections to the Business and Professions Code, relating to healing arts.

ANALYSIS:

This bill would require a hemodialysis technician to be certified by the State Department of Public Health as a Certified Hemodialysis Technician (CHT), prior to providing services to patients. To become certified, an individual would have to meet one of the following two requirements:

1. Certification by one of the following national certification programs:
 - A. The Board of Nephrology Examiners for Nursing and Technology (BONENT).
 - B. The Nephrology Nursing Certification Commission.
 - C. The National Nephrology Certification Organization.
 - D. Another national commercially available certification program approved by the Centers for Medicare and Medicaid Services.
2. Certification by the department as having met the requirements of the state certification program, as specified.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

BILL NUMBER: SB 112 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Oropeza

JANUARY 29, 2009

An act to amend Sections 1247.2, 1247.4, 1247.6, 1247.63, 1247.64, 1247.8 of, to add Section 1247.61 to, and to add and repeal Section 1247.62 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 112, as introduced, Oropeza. Hemodialysis technicians.

Existing federal law sets forth certain requirements that dialysis facilities must meet in order to be certified under the Medicare Program, including a requirement that patient care dialysis technicians at those facilities complete a specified training program, have a high school diploma or equivalency, be certified under a state or national certification program, and meet all applicable state requirements, as specified.

Existing law provides for the licensure and regulation of various clinical laboratory personnel and makes a violation of those provisions a crime. Within that law, the Hemodialysis Technician Training Act prohibits a person from providing services as a hemodialysis technician without being certified by the State Department of Public Health as meeting certain requirements, as specified.

This bill would revise those requirements and prohibit a person from providing services as a hemodialysis technician without (1) being certified by a specified national certification program or (2) having a high school diploma or equivalency or 4 years of specified work experience, successfully completing a training program meeting specified requirements, and passing a standardized test, as specified. The bill would require technicians certified by the department as of the bill's operative date to meet those requirements by April 15, 2010, as specified. The bill would make other conforming and technical, nonsubstantive changes.

By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would also declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) In April 2008, the Centers for Medicare and Medicaid Services (CMS) issued final regulations, the Conditions for Coverage of End-Stage Renal Disease Facilities (Conditions for Coverage), at Part 494 of Title 42 of the Code of Federal Regulations, establishing conditions that dialysis facilities must meet to be certified under the Medicare Program.

(b) The Conditions for Coverage require hemodialysis technicians providing services at dialysis facilities to be certified under a state certification program or a national commercially available certification program by a specified date.

(c) The Conditions for Coverage further require hemodialysis technicians providing services at dialysis facilities to, among other things, have a high school diploma or equivalency and have completed a specified training program.

(d) More than 6,000 persons provide services as hemodialysis technicians in California.

(e) Only three national commercially available certification programs have been approved by CMS.

(f) Therefore, it is the intent of the Legislature to revise the Hemodialysis Technician Training Act to ensure that hemodialysis technicians meet the requirements of the Conditions for Coverage so that dialysis facilities in this state may continue to employ those technicians.

SEC. 2. Section 1247.2 of the Business and Professions Code is amended to read:

1247.2. For the purpose of this article, the following terms have the following meaning:

(a) "Immediate supervision" means supervision of dialysis treatment in the same room in which the dialysis treatment is being performed.

(b) "Department" means the State Department of *Public Health* ~~Services~~.

(c) "Hemodialysis technician" means an unlicensed health care provider who is employed by a hemodialysis clinic or unit for the purpose of participating in the direct treatment of patients undergoing hemodialysis.

SEC. 3. Section 1247.4 of the Business and Professions Code is amended to read:

1247.4. The department shall adopt ~~rules and regulations~~ *, by July 1, 2001, prescribing minimum training standards for hemodialysis technicians who are certified pursuant to paragraphs (2), (3), and (4) of subdivision (a) of Section 1247.6 it deems necessary to implement this article*.

SEC. 4. Section 1247.6 of the Business and Professions Code is amended to read:

1247.6. (a) Except during training under immediate supervision *, and except as provided in Section 1247.62*, no person shall provide services as a hemodialysis technician without ~~meeting one or more~~ *being certified by the department as a Certified Hemodialysis Technician (CHT). To be certified by the state as a CHT, a person must meet one* of the following two requirements:

(1) Certification by the department as having been certified by ~~the~~ *one of the following*:

(A) *The Board of Nephrology* ~~Examination for Nurses and Technicians~~ *Examiners for Nursing and Technology (BONENT).*

(B) *The Nephrology Nursing Certification Commission.*

(C) *The National Nephrology Certification Organization.*

(D) Another national commercially available certification program approved by the Centers for Medicare and Medicaid Services.

(2) Certification by the department as having ~~completed a department approved training and testing program in a hemodialysis clinic or unit~~ met the requirements of the state certification program, as set forth in Section 1247.61 .

~~—(3) Certification by the department as being a graduate of a local training and testing program operated by an accredited college or accredited university approved by the department, or a graduate of a private training program approved by the department. As used in this article, accredited has the same meaning as defined by Section 94711 of the Education Code.~~

~~—(4) Certification by the department as hemodialysis technicians on or before the effective date of regulations adopted pursuant to Section 1247.4.~~

(b) This article does not apply to home dialysis patients, or patient helpers not employed by the licensed facility, who have undergone a home dialysis training program operated by a licensed clinic or hospital as defined in Sections 1204 and 1250 of the Health and Safety Code and have been certified by the medical director of the facility as being competent to perform home dialysis treatment.

~~—(c) A hemodialysis technician training program and competency test, that is approved by the department before January 1, 1998, shall not be required to be reapproved pursuant to this section or Section 1247.5 unless the department determines reapproval to be necessary to protect patient safety.~~

SEC. 5. Section 1247.61 is added to the Business and Professions Code, to read:

1247.61. To be certified by the department as a Certified Hemodialysis Technician (CHT), a person shall meet all three of the following requirements:

(a) Have a high school diploma or equivalency, or have greater than four years of work experience in dialysis as of October 14, 2008.

(b) Have successfully completed a training program that is approved by the medical director and governing body of a hemodialysis clinic or unit, under the direction of a registered nurse, focused on the operation of kidney dialysis equipment and machines, providing direct patient care, and communication and interpersonal skills, including patient sensitivity training and care of difficult patients. For purposes of this subdivision, a person "successfully completes a training program" if he or she completes all didactic portions of the program and demonstrates competency in the knowledge and skills provided by the program.

(1) The training program shall include all of the following subjects:

(A) Principles of dialysis.

(B) Care of patients with kidney failure, including interpersonal skills.

(C) Dialysis procedures and documentation, including initiation, proper cannulation techniques, monitoring, and termination of dialysis.

(D) Possible complications of dialysis.

(E) Water treatment and dialysate preparation.

(F) Infection control.

(G) Safety.

(H) Dialyzer reprocessing, if applicable.

(2) A community or corporate-based training program, or a training

program offered by an educational institution, is acceptable if the program meets the requirements of this subdivision.

(3) A person employed as a hemodialysis technician by a hemodialysis clinic or unit for more than two years as of October 14, 2008, who does not have documentation of having successfully completed a training program meeting the requirements of this subdivision, shall be deemed to be in compliance with this subdivision by doing both of the following:

(A) Passing a written exam, offered by a hemodialysis clinic or unit, covering the subjects listed in paragraph (1).

(B) Passing a skills checklist through observation by a registered nurse of the technician's skills.

(c) Pass a standardized test that is approved by the department and that covers, at a minimum, the subjects listed in paragraph (1) of subdivision (b). This test shall be administered in a proctored environment by an independent examiner. For purposes of this subdivision, independent examiners may include representatives appointed by End-Stage Renal Disease Network 17, End-Stage Renal Disease Network 18, the California Dialysis Council, or any private testing organization approved by the department for that purpose.

SEC. 6. Section 1247.62 is added to the Business and Professions Code, to read:

1247.62. (a) Except as provided in subdivision (b), Section 1247.6 shall not apply to a person certified by the department as a hemodialysis technician as of the operative date of this section.

(b) Notwithstanding Section 1247.63, the certification of a person described in subdivision (a) shall be valid until April 15, 2010. That person shall, on or before that date, obtain a new certification under Section 1247.6 in a manner prescribed by the department.

(c) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 1247.63 of the Business and Professions Code is amended to read:

1247.63. (a) Certification of a hemodialysis technician issued by the department pursuant to subdivision (a) of Section 1247.6 shall be valid for four years.

~~(b) Those hemodialysis technicians certified by the department or the Board of Nephrology Examination for Nurses and Technicians (BONENT) before January 1, 1995, shall, before January 1, 1996, apply to renew their certification, or in the case of those technicians certified by the Board of Nephrology Examination for Nurses and Technicians (BONENT) obtain department certification, by submitting the fee required by subdivision (n) of Section 1300 and proof of previous certification. The department shall automatically renew the certification of those hemodialysis technicians who were certified before January 1, 1995, and who apply for renewal pursuant to this subdivision.~~

~~(c) For renewals occurring on or after January 1, 1996, a~~

(b) A certified hemodialysis technician applying for renewal of his or her certification shall submit proof that he or she has obtained 30 hours of in-service training or continuing education in dialysis care or general health care as a requirement for the renewal of his or her certification.

SEC. 8. Section 1247.64 of the Business and Professions Code is amended to read:

1247.64. A hemodialysis technician may obtain the in-service training or continuing education required by subdivision ~~(c)~~

(b) of Section 1247.63 from one or more of the following sources:

(a) Health-related courses offered by accredited postsecondary institutions.

(b) Health-related courses offered by continuing education providers approved by the California Board of Registered Nursing.

(c) Health-related courses offered by recognized health associations if the department determines the courses to be acceptable.

(d) Health-related, employer-sponsored in-service training or continuing education programs.

SEC. 9. Section 1247.8 of the Business and Professions Code is amended to read:

1247.8. Each hemodialysis unit or clinic shall have information available for inspection by the department survey teams which ~~shows the local training program and competency test and the names of all hemodialysis technicians and hemodialysis technician trainees employed in the unit or clinic. Where a hemodialysis unit or clinic does not adopt a local training program and test, it shall provide proof~~ verifies that the hemodialysis technicians employed at the unit or clinic meet the requirements of subdivision (a) of Section 1247.6.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To avoid a critical shortage of hemodialysis technicians meeting the requirements of the Medicare Program Conditions for Coverage of End-Stage Renal Disease Facilities, it is necessary that this act take effect immediately.